

AFFIDAVIT OF SEAN HEALY

I, Sean Healy, being sworn, state:

INTRODUCTION AND AGENT BACKGROUND

1. I have been employed as a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“AwTF”) since June 2016, and am currently assigned to ATF Group VI. I have served as a Trooper in the Massachusetts State Police since 2006. I am a veteran of the United States Marine Corps.

2. As part of my duties with ATF, I investigate firearms violations both on the state and federal level. I also have significant experience investigating narcotics offenses. During my career in law enforcement, I have received training and gained experience related to a variety of criminal activities. In the course of my training and experience, I have become familiar with the methods and techniques associated with the distribution of firearms and narcotics and the organization of firearm and narcotics trafficking conspiracies.

PURPOSE OF AFFIDAVIT

3. This affidavit is submitted in support of a criminal complaint charging Juan APARICIO (born 1991) of Lowell, Massachusetts with 18 U.S.C. § 922(g) (unlawful possession of a firearm); and 21 U.S.C. § 841(a)(1) (possession with intent to distribute a controlled substance) (the “Subject Offenses”). As detailed below, there is probable cause to believe that APARICIO committed the Subject Offenses on or about January 6, 2020.

4. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show that there is probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

RELEVANT STATUTES

5. 18 U.S.C. § 922(g)(1) provides in relevant part that “[i]t shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.” On June 21, 2019, the Supreme Court issued its decision in *Rehaif v. United States*, 204 L. Ed. 2d 594, 600 (2019). The Court held that under 18 U.S.C. § 922(g) “the Government must prove both that the defendant knew he possessed a firearm and that he knew he belonged to the relevant category of persons barred from possessing a firearm.” *Id.* at 605.

6. 21 U.S.C. § 841(a)(1) provides in relevant part that: “[i]t shall be unlawful for any person knowingly or intentionally . . . to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.”

PROBABLE CAUSE

7. In June 2009, APARICIO was arraigned in Cambridge District Court for assault and battery with a dangerous weapon. He was subsequently adjudicated guilty and received an 18-month sentence, of which he served 60 days (the balance was suspended).

8. In September 2014, APARICIO was arraigned in Dedham District Court on various controlled substances offenses. APARICIO was subsequent subsequently adjudicated guilty, and he served a one-year sentence.

9. While those charges were pending, in November 2014, APARICIO was arraigned in Waltham District Court for Assault and Battery. While that charge was pending, and one month later, APARICIO was arraigned in Waltham District Court for Threatening. He was

subsequently adjudicated guilty. APARICIO served a sentence of 18 months on the Assault and Battery charge and six months on the Threatening charge.

10. In March 2015, APARICIO was arraigned in Waltham District Court for a restraining order violation and intimidation. That court subsequently adjudicated him guilty and imposed a suspended sentence of one year.

11. On or about December 1, 2018, APARICIO was arrested by the Massachusetts State Police (“MSP”) for operating a vehicle with a suspended license. I have reviewed the booking sheet that MSP generated incident to this arrest.

12. Prior to June 2019, detectives in the Lowell Police Department identified APARICIO’s Snapchat username. Snapchat is a mobile messaging application used to share photos, videos, text, and drawings. Users take photos or videos using their mobile phones and then post them online. The Snapchat Law Enforcement guide explains, “Snaps are photos or videos taken using the Snapchat app’s camera on an individual’s mobile device, and may be shared directly with the user’s friends, or in a Story (explained below) or Chat. Snap’s servers are designed to automatically delete a Snap after it has been viewed by all intended recipients. Snap’s servers are designed to automatically delete an unopened Snap sent directly to a recipient after 30 days and an unopened Snap in Group Chat after 24 hours. A user can add Snaps to their ‘Story.’” These posts are visible to any of the user’s “followers.”

13. The Law Enforcement Guide further explains, “A Story is a collection of Snaps displayed in chronological order. Users can manage their privacy settings so that their Story can be viewed by all Snapchatters, their friends, or a custom audience. A user can also submit their Snaps to our crowd-sourced service “Our Story,” which enables their Snaps to be viewed by all Snapchatters in Search and Snap Map.”

14. The Law Enforcement Guide also explains the use of location services. It explains, “[i]f a user has device-level location services turned on and has opted into location services on Snapchat, Snap will collect location data at various points during the user’s use of Snapchat, and retention periods for location data vary depending on the purpose of the collection. Users have some control over the deletion of their location data in the app settings.”

15. Snapchat also displays a timestamp for when a video was taken/posted. The timestamp is displayed in the upper left corner of the picture/video. Typically, if the picture/video is taken and immediately uploaded to the user’s account, it will display how much time has elapsed from when that specific picture/video was taken. This will be displayed in forms such as “1h ago”, “4h ago”, “1 week ago” etc. Users have the ability to post older pictures and videos that were taken at different points in time as well. When older pictures/videos are posted they are taken from the user’s camera roll or photo album from their phone. When these older pictures/video are posted it will display a timestamp labeled indicating such. For example, “5h ago from camera roll,” “10h ago from camera roll.” Being able to view the timestamp is a common way to determine if a specific video that was posted was old or taken at the time it was posted.

16. A Lowell police detective began “following” APARICIO beginning no later than June 2019. Through APARICIO’s Facebook account, the Lowell police detective was able to identify APARICIO’s username as being “Youngslum617.” When issuing a post, a Snapchat user can also use a “vanity name” or “display name.” A Snapchat username is a unique identifier associated with a specific Snapchat account, and it cannot be changed by the user. A display name, on the other hand, is not a unique identifier and can be created and changed by a user to

indicate how the user will appear within the application. During the relevant period, the “vanity name” or “display name” associated with “Youngslum617” was, among other things, “slumboii.”

17. For several months, detectives of the Lowell Police Department suspected that APARICIO was involved in firearms trafficking. They observed several videos, including the following:

- a. On or about June 9, 2019, APARICIO posted multiple videos to Snapchat offering to sell a firearm. The videos showed a hand holding a firearm with the text “Selling for the low hmu” and “Trying to get rid of it lmk.” From my training and experience I understand the abbreviation “hmu” to mean “hit me up” and abbreviation “lmk” to mean “let me know.” Screenshots of these videos are below:



- b. On or about November 19, 2019, APARICIO posted another series of videos to Snapchat. Unlike the prior videos, this series clearly shows APARICIO's

face, which I recognize from the booking sheet that the Massachusetts State Police generated in its December 1, 2018 arrest of APARICIO. In one video in this series, APARICIO is holding a firearm, pretending to fire it at the viewer. The caption states “I dare my gf say she want a girls night out.” A screenshot of this video is below.

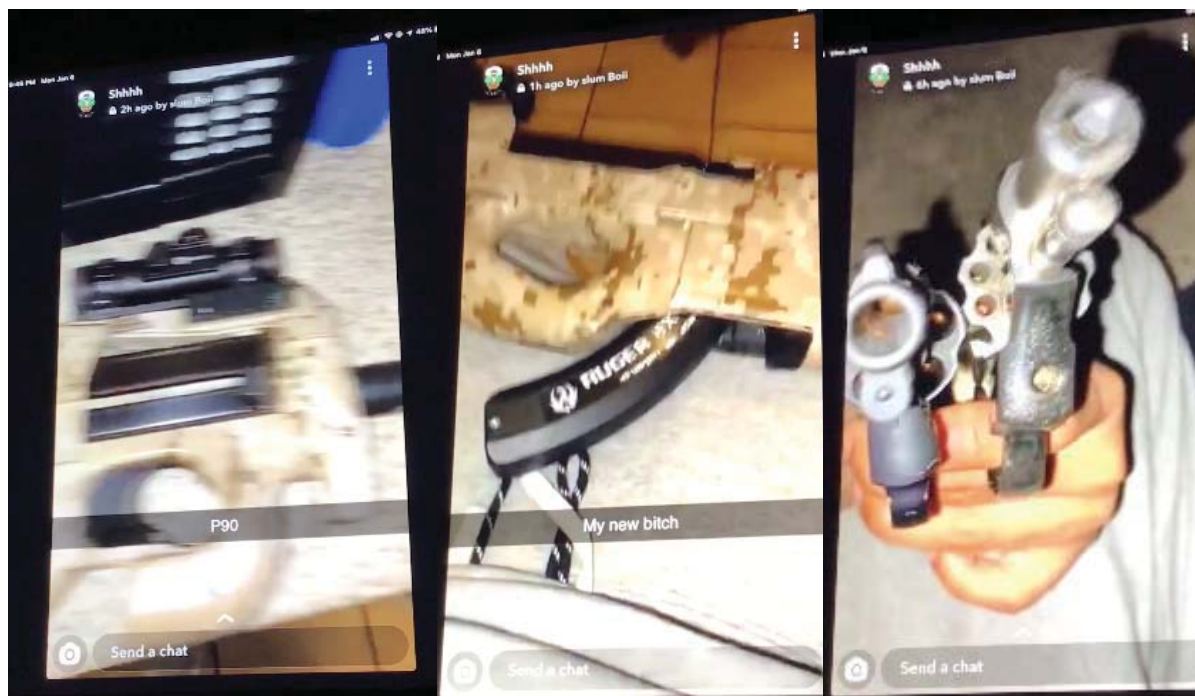


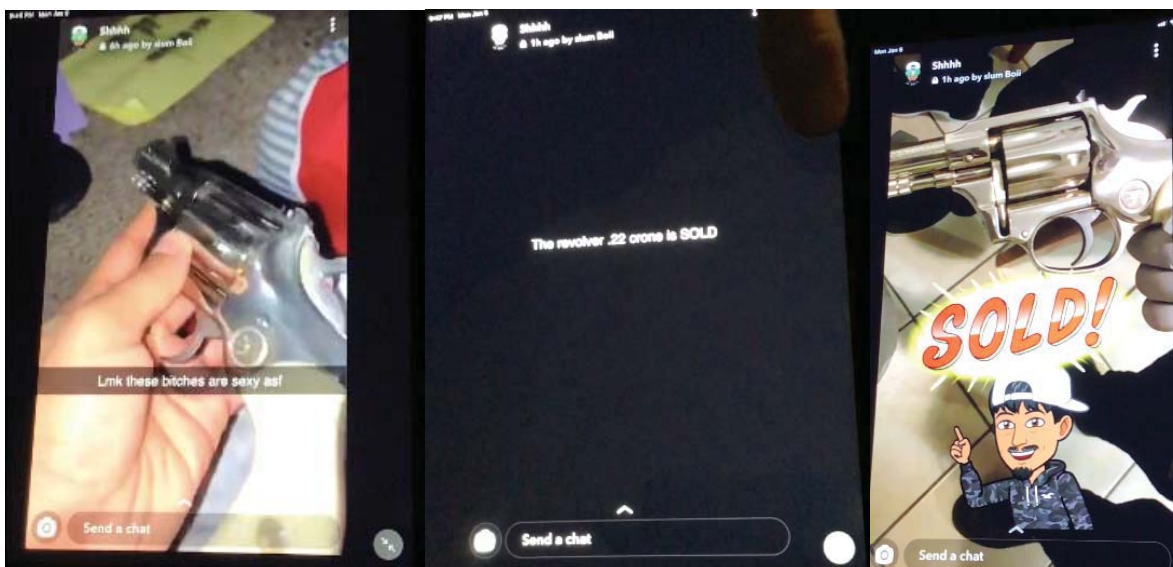
18. During this period, detectives of the Lowell Police Department identified APARICIO's residence as 241 School Street, Apt. 2, Lowell, Massachusetts, after observing him entering the residence.

19. On January 6, 2020, at approximately 9:00pm Lowell detectives observed another series of Snapchat videos, which APARICIO had recorded from approximately 3:45pm to 8:45pm that day. These included videos of APARICIO offering to sell: a 1022 HTA 90/22 rifle

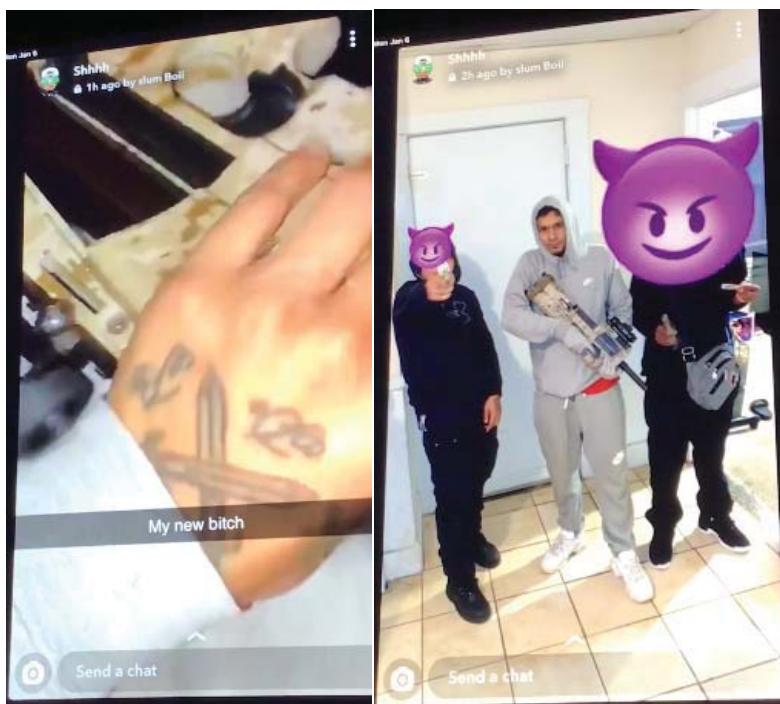
manufactured by Sturm, Ruger, & Co. (commonly known simply as “Ruger”), a P90 style stock that could be used with the Ruger rifle, and two revolvers, one of which I identified as having been manufactured by Smith & Wesson. The photo of the revolvers was captioned “Lmk these bitches are sexy asf.” A subsequent photo indicated that one of the revolvers had been sold.

Screenshots of these videos appear below:





20. In the photo of the Ruger rifle, which APARICIO captioned “my new bitch,” APARICIO’s hand tattoo is plainly visible, manipulating the firearm. Another photo shows APARICIO holding the Ruger, which has a distinct “desert fatigues” coloring. Screenshots of these photos appear below:



21. Because APARICIO's location services were active at the time of these posts, APARICIO was visible on a "SnapMap," which showed APARICIO's location at the time of these posts. From this SnapMap, it was clear that APARICIO was at his residence when he posted these videos.



22. After viewing these pictures and videos at 9:00 PM, detectives of the Lowell Police Department commenced surveillance around 241 School Street, Lowell. They observed APARICIO's car, a white 2015 Toyota Corolla bearing Massachusetts registration 7GE896 parked on School Street directly in front of this location.

23. At approximately 10:15 PM, detectives of the Lowell Police Department observed APARICIO and a female exit 241 School Street and enter his vehicle. They then conducted a traffic stop in front of 21 Mt. Washington Street, Lowell, Massachusetts for an inspection sticker violation. Both APARICIO and the female were ordered from the vehicle. The female was then identified as Ivana Fontanez. Both individuals were pat-frisked by officers on scene. One officer located two empty boxes of ammunition in the front pocket of Fontanez's hooded sweatshirt. Detectives also located a white powdery substance they believed to be cocaine in APARICIO's car. Officers of the Lowell Police Department arrested APARICIO for Possession of a Class B substance, in violation of Mass. Gen. Laws c. 94C.

24. After arresting APARICIO, Gang Unit detectives secured his apartment pending the issuance of a search warrant.

25. Detectives of the Lowell Police Department then had the opportunity to meet with and speak to the landlord of 241 School Street, Raouf Doos. They showed Mr. Doos several of the aforementioned pictures/videos. Mr. Doos confirmed that the videos displayed 241 School Street. Mr. Doos also identified APARICIO as the tenant of Apartment 2.

26. Based upon the fact that APARICIO posted videos of himself at his residence while possessing and offering to sell firearms, officers of the Lowell Police Department obtained a warrant to search 241 School Street, Apartment 2.

27. Lowell police officers interviewed APARICIO after his arrest. During the interview, APARICIO stated that he "knows who has" the Smith & Wesson revolver displayed in his Snapchat video. APARICIO also said that if the Lowell police released him, he could recover at least one of the guns. APARICIO said that the individual who has the revolver also is in possession of the Ruger rifle.

28. Upon executing the search warrant, officers located the Ruger rifle, loaded with a 25 round magazine, located in the bottom drawer of a washer/dryer. Based upon my training and experience, I understand that Sturm, Ruger & Co. is based in Southport, Connecticut, and has manufacturing facilities in New Hampshire, North Carolina, and Arizona. I further understand that no ammunition is manufactured in Massachusetts.

29. In APARICIO's bedroom, officers located one empty Glock handgun cases, two small end-tied baggies of a white powdery substances believed to be cocaine totaling approximately 5.24 grams, one digital scale, a box of zip lock bags, and a box of rubber gloves on the floor. Based upon my training and experience, I understand that the end-tied baggies, the digital scale, one box of zip lock bags, and the box of rubber gloves to be indicative of drug distribution.

CONCLUSION

Based on the information set out above, I believe probable cause exists to conclude that:

(a) on or about January 6, 2020, APARICIO, knowing that he had been convicted of a crime punishable by a year or more of imprisonment, knowingly possessed, in and affecting commerce, a firearm; and (b) possessed with the intent to distribute a controlled substance, to wit, cocaine.

Respectfully submitted,

/s/ Sean Healy ^{DLC}
Sean Healy, Task Force Officer
Bureau of Alcohol, Tobacco, Firearms, and
Explosives

Subscribed and sworn to before me on June 8, 2020, by telephone

DLC

Hon. Donald L. Cabell
United States Magistrate Judge

